IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

CRP.No. 307 of 2005()

AGAINST THE ORDER DATED 18/02/2005 IN EP.283/2002 IN OS.733/1998 of II ADDL.SUB COURT,THRISSUR

.....

REVN. PETITIONER:

C.M.ABOOBACKER, CLERK-TYPIST,
AG'S OFFICE, THRISSUR, S/O.CHOMAYIL MUHAMMEDKUTTY,
CHERUTHURUTHY VILLAGE, THALAPPILLY TALUK.

BY ADV. SRI.M.JACOB MURICKAN
SRI.DINESH MATHEW J.MURICKEN

RESPONDENT:

MANUELSONS FINANCIAL ENTERPRISES (P) LTD
M.O.ROAD, THRISSUR.

BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.KAUSER EDAPPAGATH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.857/05 AND 163/06 IN CRP.NO.307/05

CLOSED

18.7.2007 SD/- PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

C.R.P.No.307 OF 2005

.....

DATED THIS THE 18th JULY, 2007

O R D E R

The strenuous submissions of Mr.Jacob Murikan, counsel for the petitioner notwithstanding, I do not find any jurisdictional infirmity about the order passed by the learned Subordinate Judge finding that the petitioner who is the 2nd judgment-debtor has wilfully neglected to pay the decree-debt despite his means. However, having regard to the circumstance that the petitioner was only a surety along with the principal judgment-debtor who was his superior officer in the A.G's Office where he was working at the relevant time and the further circumstance that the evidence will not justify a conclusion that the petitioner is in very affluent circumstances, I am inclined to direct the execution court to consider a request for instalment facility in the matter of paying the decree-debt.

2. Accordingly, even as I confirm the impugned order, I direct continuance of the stay presently granted for a period of four more months from today, subject to the condition that every month commencing from the 1st of August, 2007 the petitioner will pay a sum of Rs.3500/- to the decree-holder towards the decree-debt either directly or through its counsel. The petitioner will file an application for

instalment facility in the matter of paying the decree-debt. If such an application is received by the court below within one month of the petitioner receiving copy of this order, the court below will hear the decree-holder also and take a decision on that application within two months of receipt of the same. It is made clear that if the petitioner defaults payment of instalments as ordered above, he will forfeit the benefit of this order. It is further made clear that this order will not stand in the way of the execution court issuing all possible coercive action against the 1st judgment-debtor and fellow-judgment-debtors.

The Civil Revision Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl